

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GEORGE E. JOHNSON, JR.

Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 380, et al.,

Defendants.

Civ. Action No. 06-3699

MEMORANDUM/ORDER

Mr. Johnson seeks to proceed *in forma pauperis* in his appeal of my March 8, 2007 Memorandum/Order dismissing his action.¹ The Federal Rules of Appellate Procedure set forth the procedures in accordance with which a litigant may seek leave to proceed *in forma pauperis*.

¹ The procedures governing *in forma pauperis* status are described in 28 U.S.C. § 1915. Most notably, § 1915(a)(1) directs that:

[A]ny court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

28 U.S.C. § 1915(a)(1). The statute requires that a person seeking *in forma pauperis* status submit an affidavit including a statement of his or her assets. While the statute refers to "all assets such prisoner possesses," courts have "reviewed the legislative history . . . , applied the basic axioms of statutory interpretation, and used a little common sense" to find that Congress's use of the word "prisoner" in this provision was a typographical error. *Floyd v. U.S. Postal Serv.*, 105 F.3d 274, 275 (6th Cir. 1997), *quoted in Jones v. N. Atl. Treaty Org.*, 1998 WL 136511, at *1 (E.D. Pa. 1998). Following Sixth Circuit's reasoning in *Floyd*, the Eastern District of Pennsylvania applies the affidavit requirement to nonprisoner litigants. *Jones*, 1998 WL 136511, at *1.

See Fed. R. App. P. 24(a)(1). The rule requires that:

[A] party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.

Id.

Mr. Johnson's application to proceed *in forma pauperis* does not conform with the requirements of Fed. R. App. P. 24(a)(1) and will therefore be denied without prejudice for him to resubmit a motion to proceed *in forma pauperis* that contains the required materials. A copy of Form 4 of the Appendix of Forms is attached to this Memorandum/Order for Mr. Johnson's reference.

AND NOW, this 10th day of May 2007, upon consideration of Mr. Johnson's Petition and Motion for Permission to Proceed *In Forma Pauperis*, it is ORDERED that the motion is DENIED without prejudice to resubmit a motion conforming with the Federal Rules of Appellate Procedure.

BY THE COURT:

/s/ Louis H. Pollak
Pollak, J.